

HOWARD E. COLE, ESQ.
Nevada State Bar No. 4950
CARYN S. TIJSSELING, ESQ.
Nevada State Bar No. 6521
LEWIS AND ROCA LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
(702) 949-8200
(702) 949-8398/fax

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

ANTHONY KISER, individually and on behalf of others similarly situated,)	Case No. 2:11-cv-00165
)	
Plaintiff,)	
)	DEFENDANTS' PROPOSED DISCOVERY
vs.)	PLAN AND SCHEDULING ORDER
)	
PRIDE COMMUNICATIONS, INC. and)	(SPECIAL SCHEDULING REVIEW
CRAIG LUSK,)	REQUESTED)
)	
Defendants.)	

Defendants Pride Communications, Inc. and Craig Lusk hereby submit to the Court the following discovery plan and scheduling order pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 26-1(e).

1. Meeting.

As required by Federal Rules of Civil Procedure 26 and Local Rule 26-1(d), a 26(f) conference will be conducted on or about **April 1, 2011**.

2. Statement of Reasons Why Special Scheduling Review Requested.

The parties seek special scheduling review as this action has been pled as a class action. Plaintiff has filed a Motion for Circulation of Notice of Pending (Doc. #11). The parties seek additional time to conduct discovery as necessary because of the class action nature of this litigation and the possible joinder of additional plaintiffs in this action.

3. Initial Disclosures.

The Plaintiff and Defendant will exchange their respective Initial Disclosures no later than **April 1, 2011** pursuant to FRCP 26 and LR 26-1.

1 **4. The Subjects on Which Discovery Will Be Conducted.**

2 The parties intend to conduct discovery on the class action and FLSA collective action
3 certification/decertification issues, including but not limited to status, commonality and typicality.
4 The parties will also conduct discovery on the claims as set forth in the Complaint, the defenses
5 relevant to the claims in this action and on any additional class certification and related issues.

6 **5. Issues Related to the Disclosure or Discovery of Electronically Stored Information.**

7 The Plaintiff has not alleged that this case involves the use or misuse of electronic
8 documents and/or systems. However, with respect to the production of electronically stored
9 information, to the extent feasible, the parties agree that relevant electronically stored information,
10 including but not limited to PST files (personal e-mails), work records, and payroll records, if any,
11 will be exchanged by the parties in paper format.

12 **6. Issues Relating to Claims of Privilege or Attorney Work Product.**

13 The parties acknowledge and agree that while each is taking reasonable steps to identify
14 and prevent disclosure of any document which they believe is privileged, given the volume and
15 nature of material being exchanged, there is a possibility that certain privileged material may be
16 produced inadvertently. Accordingly, the parties agree that a party who produces a document
17 protected from disclosure by the attorney-client privilege, attorney-work product doctrine or any
18 other recognized privilege ("privileged document") without intending to waive the claim of
19 privilege associated with such document may promptly, meaning within fifteen (15) days after the
20 producing party actually discovers that such inadvertent disclosure occurred, amend its discovery
21 response and notify the other party that such document was inadvertently produced and should
22 have been withheld. Once the producing party provides such notice to the requesting party, the
23 requesting party must promptly, meaning within seventy-two (72) hours, return the specified
24 document(s) and any copies thereof. By complying with this obligation, the requesting party does
25 not waive any right to challenge the assertion of privilege and request an order of the Court
26 denying such privilege.

27 ///

28 ///

1 **7. Limits on Discovery.**

2 At this time, the parties agree that discovery will be conducted in accordance with the
3 Federal Rules of Civil Procedure and applicable Local Rules of this District Court without
4 limitation or modification of the same.

5 **8. Discovery Plan.**

6 All discovery in this case will be conducted in accordance with the Federal Rules of Civil
7 Procedure and applicable Local Rules of this District Court. The parties propose to the Court the
8 following cut-off dates:

9 (a) **Discovery Cut-off Date.** Discovery should be concluded within two
10 hundred and seventy (270) days from the closing of the “opt in” joinder
11 date should the Court approve plaintiffs’ pending motion (Doc. #__11__) to
12 circulate notice of pendency to persons similarly situated as per 29 U.S.C.
13 Sec. 216(b). This time period is in excess of the 180 day period used by
14 this Court’s Local Rules. Additional time to conduct discovery is needed
15 because of the class action nature of this litigation and the possible joinder
16 of additional plaintiffs pursuant to 29 U.S.C. Sec. 216(b).

17 (b) **Amending the Pleadings and Adding Parties.** The last date for filing
18 motions to amend the pleadings or add parties shall be no later than 120
19 days after the closing of the notice of pendency of circulation period in this
20 action, should this Court grant plaintiffs’ motion to circulate notice of the
21 pendency of this action to other persons similarly situated pursuant to 29
22 U.S.C. Sec. 216(b).

23 (c) **Expert Disclosures.** Initial expert disclosures shall be made sixty (60) days
24 before the discovery cut-off. Rebuttal expert disclosures shall be made
25 thirty (30) days after the due date for expert disclosure. The parties shall
26 have until the discovery cut-off date to take the depositions of the experts.

27 (d) **Dispositive Motions.** Dispositive motions shall be filed within sixty (60)
28 days after the completion of discovery unless a motion for class

certification is made or pending during such time, in which case dispositive motions may be filed at anytime until sixty (60) days after a ruling on all such class action certification motions.

(e) **Final Pretrial Order.** The Pretrial Order shall be filed thirty (30) days after the deadline for filing dispositive motions, unless dispositive or class action certification motions have been filed, in which case the Final Pretrial Order will be due thirty (30) days after the decision on the last dispositive motion or class action certification or further order of the Court.

(f) **FRCP 26(a)(3) Disclosures:** The disclosures required by FRCP 26(a)(3) and any objections thereto shall be included in the final pretrial order.

9. Interim Status Report.

In accordance with LR 26-3, the parties shall file the interim status report sixty (60) days before the discovery cut-off.

10. Extensions or Modifications of the Discovery Plan and Scheduling Order.

In accordance with LR 26-4, any stipulation or motion for modification or extension of this discovery plan and scheduling order must be made twenty (20) days before the discovery cut-off date.

DATED this 14th day of March, 2011.

LEWIS AND ROCA LLP

BY: /s/ Caryn S. Tijsseling

HOWARD E. COLE, ESQ.
CARYN S. TIJSSELING, ESQ.

IT IS SO ORDERED that the proposed scheduling order is disapproved without prejudice. It does not comply with LR26-1(d)'s requirement that it be a stipulated order.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 3-16-11

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on counsel, listed below, on the 14th day of March 2011, through the court's electronic service system:

Leon Greenberg, Esq.
Leon Greenberg Professional Corporation
633 South 4th Street, Suite 4
Las Vegas, Nevada 89101

Christian Gabroy, Esq.
Gabroy Law Offices
170 S. Green Valley Parkway, Suite 280
Henderson, Nevada 89012

Attorneys for Plaintiffs

/s/ Kristy Schaaf
An Employee of Lewis and Roca LLP